2864

SUPREME COURT OF THE UNITED STATES.

No. 275.

THE UNITED STATES, APPELLANTS,

vs.

ANTONIO MARIA OSIO.

APPEAL FROM THE DISTRICT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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GIDEON, print.

Transcript of the proceedings in case No. 18—*Antonio Maria Osio, claimant*, vs. *The United States, defendant—for the place named "Angel Island."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this second day of February, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Antonio Maria Osio, for the place named "Angel Island," was presented, and ordered to be filed and docketed with No. 18, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

SAN FRANCISCO, *February 7th*, 1852.

In case No. 18, Antonio Maria Osio, for the island of Angeles, the deposition of John J. Viojet, a witness in behalf of the claimant, taken before Commissioner J. Wilson, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *January 19th*, 1853.

In the same case the deposition of W. D. M. Howard, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. J. T., No. 1, annexed thereto, was filed.

(Vide page 9 of this Transcript.)

SAN FRANCISCO, *September 1st*, 1853.

In the same case the deposition of W. A. Richardson, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 10 of this Transcript.)

SAN FRANCISCO, *September 13th*, 1853.

Case No. 18, on motion of the U. S. law agent, was ordered to the foot of the docket.

SAN FRANCISCO, *April 14th*, 1854.

In the same case the deposition of Joseph L. Folsom, a witness

in behalf of the claimant, taken before Commissioner Peter Lott, was filed.

(Vide page 13 of this Transcript.)

SAN FRANCISCO, *June 8th*, 1854.

In the same case the deposition of Antonio Ortega, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 19 of this Transcript.)

SAN FRANCISCO, *June 10th*, 1854.

In the same case the deposition of Pablo Briones, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 24 of this Transcript.)

SAN FRANCISCO, *June 17th*, 1854.

In the same case the deposition of Juan B. Alvarado, a witness in behalf of the claimant, taken before Commissioner Peter Lott, was filed.

(Vide page 29 of this Transcript.)

SAN FRANCISCO, *June 20th*, 1854.

Case No. 18, on motion, was ordered to be placed at the foot of the calendar of the 1st class cases on the trial docket.

SAN FRANCISCO, *July 20th*, 1854.

In the same case the deposition of W. A. Richardson, a witness in behalf of the claimant, taken before Commissioner Peter Lott, was filed.

(Vide page 47 of this Transcript.)

SAN FRANCISCO, *August 17th*, 1854.

Case No. 18 was submitted on briefs.

SAN FRANCISCO, *October 24th*, 1854.

In the same case Commissioner S. B. Farwell delivered the opinion of the board confirming the claim.

(Vide page 69 of this Transcript.)

And the following order was made, to wit:

(Vide page 73 of this Transcript.)

Petition.

To the honorable the Board of Commissioners for the adjudication of California land claims:

Your memorialist, Anthony Ma. Osio, a citizen of California for

the last 26 years, respectively showeth, that on the 11th of June, 1839, he received from Governor Alvarado a grant of the island of Los Angeles, under special orders from the Mexican government, dated 24th July, 1838, (see original paper duly recorded and herewith filed.)

Your memorialist also respectfully represents, that in the year 1840 he put on the island of Los Angeles, near the entrance of the bay of San Francisco, California, fifty-four head of horned cattle, which in 1846 had increased to five hundred, and that after California was occupied by the naval forces of the United States they commenced killing off the cattle for military and naval uses, without respect to his rights, and continued to do so until there were none left.

Your memorialist further represents, that, to the best of his knowledge and belief, no other individual has or pretends to have any title or claim whatever to the said island of Los Angeles, he having remained in peaceable possession in fee thereof up to the termination of hostilities between the United States and Mexico, and that since *he was* some individuals have attempted to squat on the said island, but have in most cases acknowledged his rights thereto, and have paid him rent. Wherefore your memorialist prays that your honorable board will confirm to him his claim to said island according to law, and decree his title to the said island to be valid.

Your memorialist will ever pray, &c.

JOHN PARROTT, *Attorney*.

Filed in office February 2d, 1852.

(Signed) GEO. FISHER, *Sec'y*.

Deposition of J. J. Vioget.

I, John J. Vioget, of San Francisco, and State of California, of lawful age, depose and say, that I have resided in San Francisco since the year 1839; that it has been my constant place of residence, except one year when I resided at the pueblo of San José.

I am well acquainted with Anthony Ma. Osio, who claims Angel island, in the bay of San Francisco, and have known him intimately since the year 1837; in the year 1840 I was informed by Osio himself that he, the said Osio, had received a grant for Angel island, and I and several other persons were requested to go and assist the said Osio to transport cattle and horses, and other stock, from the main land, and put upon the island.

I could not myself go, as I had business at Santa Clara in collecting hides, but I know *of* the other gentlemen did prepare to go; before this time, 1840, I had known Angel island perfectly well, and had been frequently upon it; before that time I had never seen any stock on the island.

Subsequently I have been upon the island, and I have seen a large quantity of stock, cattle and horses, on the island, which have been claimed by the said Osio; the cattle on said island had the mark of Osio upon them.

I have never heard the title of Osio to the said Angel island questioned or disputed, nor have I ever heard any other person make any claim to it.

At the time I have above spoken of, viz: in the year 1840, I was invited by Osio himself to go and assist him in putting cattle and other stock on the island with my launch, and which I should have done but for the necessity of my going with my launch to Santa Clara after hides.

The deponent, upon cross-examination by George W. Cooley, esq., law agent of the United States, further says, that he had been very frequently on Angel island, and had been in every part of said island from 1837 to 1840; that up to the time when Osio put the stock on the island, he, the witness, had never seen any stock or cattle of any kind upon the island; I have never seen any stock upon said island, except those that had Osio's mark or brand upon them.

I have been over the island very frequently since 1840, and have seen the cattle on it, but I have never seen any that had any other mark except Osio's.

I cannot now distinctly recollect *who* Osio's mark was, so as to describe it; at that time I was familiar with the marks of almost all the cattle raisers in this region, and I could then have described the marks, but for the last seven years I have not been in the business of trading in hides, and the marks have now escaped my recollection.

The persons who were invited, and who prepared to go to assist Osio in putting the cattle on the island, referred to in the foregoing deposition, were Miguel Pedrorena, who is since dead, and Eulogio Celis, who now lives at Pueblo Los Angeles.

JOHN J. VIOGET.

STATE OF CALIFORNIA,
San Francisco, ss.

On this seventh day of February, A. D. 1852, then the foregoing John J. Vioget, being interrogated by G. W. Cooley, esq., law agent of the United States, on the voir-dire, said that he had no interest in the matter in hearing, or in the result of the application, and he, the said John J. Vioget, being sworn in chief to state the truth, the whole truth, and nothing but the truth, in relation to the petition of Anthony Ma. Osio, for confirmation of a grant to Angeles island, in the bay of San Francisco, gave and subscribed the foregoing deposition, and made solemn oath that the same was true.

G. W. Cooley, esq., law agent of United States, being notified thereto, was present and did not object.

Said testimony taken at request of the claimant, before me,

JAMES WILSON,
Commissioner.

Filed in office 7th February, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of W. D. M. Howard.

SAN FRANCISCO, *January 19th*, 1853.

On this day before Commissioner Harry J. Thornton came Wm. D. M. Howard, a witness in behalf of the claimant, Antonio Maria Osio, petition No. 18, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

Questions by Claimant.

Ques. 1. What is your name, age, and place of residence, and how long have you resided there?

Ans. My name is W. D. M. Howard; my age is thirty-three years; and my residence is San Francisco, California, where I have resided eleven or twelve years.

Question 2d. Are you acquainted with the handwriting of Juan B. Alvarado and Manuel Jimeno? and if yea, look upon the document now here shown you, marked as Exhibit No. 1 to this deposition, and filed herewith, and say whether their names, as they appear written in and to said document, are their genuine handwriting.

Answer. I am acquainted with the handwriting of said Alvarado and Jimeno, having seen them write, and upon examining the said document, say that their signatures, where they appear in and upon said document, are their genuine signatures.

WM. D. M. HOWARD.

U. S. law agent present.

Sworn to and subscribed before me, this 19th January, 1853.

HARRY J. THORNTON,
Commissioner, &c.

Filed in office January 19th, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Wm. A. Richardson.

OFFICE OF COMMISSIONERS OF LAND CLAIMS IN CALIFORNIA.

This day before Commissioner Alpheus Felch came Wm. A. Richardson, a witness for claimant, Antonio Maria Osio, case No. 18, who, after being duly sworn, deposed as follows:

Questions by General Wilson, for Claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is William A. Richardson; my age fifty-eight years; and I reside at Sausalito, in Marin county, in the State of California.

2d question. Do you know the island called Los Angeles, in the bay of San Francisco?

Answer. I do.

3d question. To whom does it belong?

Answer. It was granted to Don Antonio Maria Osio, about the year 1839 or 1840.

4th question. State what you know in relation to taking possession of that island.

Answer. It was taken possession of by Don Antonio Maria Osio immediately after I understood he received his grant. He applied to me to lend him my launches, to take his cattle there from the mission of San Francisco de Assis. I assisted him with two launches, and we took in fifty heifers, five young bulls, and two tame horses. They were landed on the island, and branded with his brand. He made a reservoir for water, by building a dam across a small stream on the northeast side of the island. The island is in plain sight of my house. I was the agent of Osio, to take care of the island and the cattle. The stock continued on the island and increased, and in 1846 there were some five hundred head of cattle there; they were afterwards stolen off by people in boats about the bay. I put a man there, when I found they were robbing the cattle and commenced cutting firewood, to take care of the place for Osio, but he could do nothing to prevent it. He was there from 1847 until 1850, when the cattle became reduced to about fifty head, and I then gave up the charge of the island. I surrendered it to a Frenchman, whose name I do not recollect, by the direction of Osio, communicated in a letter from him to me, which the Frenchman brought to me.

5th question. State the character of the island—is it fit for cultivation, or only for stock raising?

Answer. For stock raising; very little of the land is fit for cultivation.

Question by Mr. Greenhow, Associate Law Agent.

1st question. Did Mr. Osio build any house on the island, or ever lived on it?

Answer. He never lived on it himself; the only house ever built was built by the man I put on there, as before stated. It was on the northwest side of the island, at a small bay called Raccoon bay. He sometimes went there to mark his cattle and look around, when he lived in a tent.

WILLIAM A. RICHARDSON.

Subscribed and sworn to before me at San Francisco, this first day of September, A. D. 1853.

ALPHEUS FELCH,
Commissioner.

Filed in office September 1st, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of J. L. Folsom.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *April 14th*, 1854.

This day personally came before Peter Lott, a commissioner appointed to take testimony to be used before the board of U. S. land commissioners, Joseph L. Folsom, a witness on behalf of the claimant in case No. 18 on the docket of said board, wherein are claimants; and said witness, being duly sworn, on oath deposed in the English language as follows, to wit:

The U. S. law agent is present.

Questions by the Attorney for Claimant.

Question 1st. What is your name, age, and present residence?

Answer. My name is Joseph L. Folsom; my age 35 years; my residence San Francisco.

2d question. State whether at any time you obtained from the Spanish archives of this State a book of records of titles from the years 1836 to 1844; if yea, when, and for what purpose, and where is that book now, or what became of it?

Answer. A few weeks before the occurrence of the May fire of 1851 in this city, a book of Spanish records was put into my hands by a staff officer of General Persifor A. Smith, of the U. S army, then the commanding general in California, to be used as evidence in a suit then pending in the supreme court of this city, between Leese and Vallejo vs. Clark; the book was brought from Benicia, where the archives were then kept, and it formed a portion of those archives; it was used in evidence in the case referred to; was afterwards, in a few days, returned to me, and afterwards was destroyed by fire on the 3d of May, 1851, with nearly all the contents of my office; to the best of my recollection it contained entries as far back as the year 1837, and down as late as 1844, of synopses of grants, embracing names of grantors, dates, descriptions of grants by name or in brief, &c., being a mere synopsis; the book was offered in evidence on the trial spoken of, as I suppose, as a matter of opinion in support of some claim, whereof the book bore record, of some grant in which the parties were interested; *by* business was merely to identify the book as being of the archives, which I did; I was at that time a staff officer in the United States army on duty in this city, and as such, the book was intrusted to me.

Cross-examined by U. S. Law Agent.

1st question. What officer placed the book in your possession?

Answer. Capt. Frederick G. Steele, an aid-de-camp of General Smith.

2d question. Is the fact of that officer placing the book in your possession, and the information he gave you, the only means you have of knowing the book to be authentic record?

Answer. The only personal means of knowledge; I never saw the book before.

3d question. How long was the book in your possession?

Answer. Perhaps one week, perhaps 3; I cannot tell precisely; it was in the hands of the court about 10 days; it may have been some 5 or 6 weeks from the time I received it till it was destroyed.

4th question. Did you at that time understand well the Spanish language? If yea, state to what extent you examined the book.

Answer. I could then with some little difficulty read the Spanish language, but I made no examination of the book except to glance through it cursorily to find the record of the case which was in question in the court; I did that as a matter of curiosity merely, and had no interest in the case.

5th question. Describe what kind of a book it was.

Answer. It was a volume about the size of foolscap paper—say about $\frac{1}{2}$ inch thick; I do not think it would have contained over 200 pages; it was bound in pasteboard covers, with either cloth or leather on the outside; it was not apparently newly bound, but seemed soiled by use; it was written on a yellowish paper, such as was in use among the Spanish people.

6th question. What other grants do you recollect, besides the one mentioned, as being entered in the book?

Answer. I do not recollect a single one; the entries were in the nature of an abstract, each entry embracing some 6 or 8 lines; I looked at it once in my office, and again in the court, with reference to the case spoken of, and made no other examination of it; the mode in which the book was kept struck me with some force, as it was the first book of the Spanish archives I had seen.

Question 7th. Having examined but one case, how did you learn the points of time within which the record was embraced, as before stated by you?

Answer. It was because I was struck with the small size of the book, and in looking through it, according to my present recollection, there were entries in it running from 1837 to 1844; the book struck me as peculiar in its form and appearance, as a book of record, being so different from those I had been accustomed to see; there was some writing on a fly-leaf of the book, and my impression is, that gave some indication of what the book contained; my actual examination of the book was very cursory, and I can now only give my impressions of its contents, not feeling very positive as to the

minute particulars of its contents; the grant, for which the book was used in evidence on that occasion, was of a date before 1840.

8th question. What was the character of the entry you examined?

Answer. It was a mere synopsis of the date, names of grantor, or officer granting, and the grantees, the name or description of the place granted, the quantity of land, and its locality, &c., embracing in all, perhaps, 6 or 8 lines of writing.

Re-examined by Attorney for Claimant.

1st question. Do you recollect whether you was required, by a subpœna, or otherwise, officially to produce the book before the court?

Answer. I was notified by some officer of the court—my impression is it was the clerk of the court—when the book would be required. I do not recollect certainly how I was called upon, but I understood myself to be required officially to produce the book; the clerk said he would be responsible for its safe keeping while in the hands of the court, and he returned it to me when they were done with it.

2d question. Where is Capt. Frederick G. Steele, of whom you have spoken?

Answer. I do not know; I think he is not in California; I believe he is somewhere in New York, and still in the army.

Cross-examined by the U. S. Law Agent.

1st question. How was the grantor described, and who was named as such in the entry which you examined?

Answer. I cannot tell now whether it gave the name of the grantor, and do not recollect who was the grantor.

2d question. How far could you ascertain from those entries whether the grants were made by governors or alcaldes?

Answer. I do not profess to know how they were made in this particular case; I recollect there was something about it which conveyed to my mind the idea, and left the impression that the grant emanated from headquarters at Monterey, though I cannot now remember what that was. The alcalde grants I have seen have been a full record of the grant, and the entries in this book were in brief, as I have before stated; I saw no full records in this book, spoken of.

3d question. Can you state the contents of the entry mentioned in relation to the grant to Leese and Vallejo, as to where the land was situated and by whom the grant was made?

Answer. I do not remember by whom the entry represented the grant to have been made; I have before answered as to my impression upon that point. The place or situation of the land, I can recollect, was called or described as at the Russian landing or embarcadero, as embracing some hundreds of varas, and being on the

bay shore. It was granted to Jacob P. Leese and Don Salvador Vallejo. J. L. FOLSOM.

Subscribed and sworn to before me, on this 14th day of April, 1854.

PETER LOTT,
Commissioner for taking testimony, &c.

It is hereby stipulated and agreed, by and between the U. S. law agent and Volney E. Howard, esq., attorney for claimants in case No. 74, that the foregoing deposition may be considered as taken, and may be used and read in evidence, in cases No. 74 and No. 11 on the docket of the commission.

San Francisco, April 14, 1854.

Filed in office April 14, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Antonio Ortega.

UNITED LAND COMMISSION,
San Francisco, June 8, 1854.

On this day before Commissioner Alpheus Felch came Antonio Ortega, a witness in behalf of the claimant, case No. 18, wherein Antonio María Osio is claimant of a place called Island of Angeles, who, after being duly sworn, deposed as follows, to wit:

First question. What is your name, age, and place of residence?

Answer. My name is Antonio Ortega, aged seventy-three years; my present place of residence is at Sancelito.

Second question. Do you know the place called Angel island? If yea, state under what circumstances Osio obtained the grant of it.

Answer. I know the island; on two different occasions I petitioned Alvarado, the governor of California, for a grant of the island, but he refused, saying that it had been granted to Antonio M. Osio; that the island belonged to Osio.

Third question. Did Osio ever occupy the island; if so, when and in what manner?

Answer. In the year 1840 (I cannot exactly say in what part of the year) Osio put cattle and horses on the island; I cannot say how many. In the same year he built a brush hut on the island, similar to those used by the Indians; Osio himself did not live there, but he had servants who lived in the hut there; he had also made a dam, to collect water for cattle. He was back and forth on the island, superintending his business there; I saw him there a number of times. The servants who occupied the hut took care of the stock, and also cultivated a part of the land for Osio in the year 1840, and afterwards until I went to Oregon, in 1843; when I returned

from Oregon in 1847, I saw a larger and better house on the island, and was told that it belonged to Osio.

Fourth question. On what part of the island were the buildings and cultivation of which you have spoken?

Answer. On the eastern side.

Fifth question. How large is the island?

Answer. About one league in circumference; it may be more.

Sixth question. How late did Osio occupy the island in the manner you have described?

Answer. When I returned from Oregon in 1847, as I have stated, I saw some cattle still on the island, but I was told that they had been most killed off by persons passing in boats, and that the ranch was broken up, (se le llevo El Diablo.)

Cross-examined by J. H. McKune, Esq., Law Agent.

1st question. Where does this island lie; how far is it from the city of San Francisco, and in what direction?

Answer. It lies in the bay of San Francisco, on the way between the city of San Francisco and Sonoma, a few miles distant in a northerly direction.

2d question. When was it the governor first told you it had been granted to Osio, and at what date did he tell you the second time?

Answer. The first time I spoke to the governor about it was in the latter part of the year 1839; the second time was in the beginning of 1840; and at each of these times he told me so.

3d question. How do you know Osio put cattle and horses on the island; who told you so; how large was the brush hut, and how was it made; how many cattle and horses did you ever see it; how many fences did you ever see on it; how many persons did you ever see residing on it, and at what time?

Answer. I know he had cattle and horses on the island, because I saw him put them there. I never was in the house, and therefore cannot say exactly how large it was. It was built of poles, and daubed with mud to fill up the cracks between them, and was such as was generally occupied by the servants on estates at that period. I can't say how many cattle and horses I saw on the island; there were, however, many more cattle than horses. At times I have seen as many as ten or twelve persons on the island, but I cannot say that they all lived on the island. I am certain that at least three or four lived there permanently, as in passing at different times, from 1840 to 1843, I have seen them engaged in various occupations, such as herding the cattle, digging the soil, &c.

4th question. Who told you, and how do you know, that Osio built a dam there to collect water; is there any stream of water on the island?

Answer. No one told me; when I landed on the island I saw some men building the dam. Osio was there giving directions; I remarked to him at the time that he had taken the bread out of my mouth by anticipating me in obtaining the grant of the island. There is a small stream running from a spring, the water of which the dam was intended to collect for the use of the cattle.

5th question. How many times did you ever see Osio on the island, and what was he doing there; how much land was cultivated on the island; what was raised; and what became of the produce?

Answer. I saw Osio on the island twice. The first time he was giving directions to his laborers, as I have before stated; the second time I saw him was towards evening; he was not particularly engaged at the time. There was a large spot of ground cultivated containing several hundred varas probably; I saw corn, potatoes, pumpkins, beans, growing there, enclosed by a brush fence; what became of the produce I cannot say.

6th question. Where did Osio reside from 1839 to 1843, and what business was he engaged in, and what offices did he hold?

Answer. Osio was the collector of customs for the port of Monterey during that time, but he made periodical visits to his island and ranch at Punta Reyes; he came up frequently to attend to his property there.

7th question. Who lived in the hut you mention; how often did you see them there; what did they do on the island; and how long did they live there to your knowledge?

Answer. Osio's men lived in the hut. I saw them there frequently in the years 1840 to 1843. They were employed in tending cattle and cultivating the ground. They were there from 1840 to 1843, when I left for Oregon; when I returned, as I have already said, I saw a larger house.

ANTONIO ORTEGA.

Subscribed and sworn to before me this eighth day of June, 1854.
ALPHEUS FELCH, *Commissioner.*

Filed in office June 8, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Pablo Briones.

UNITED STATES LAND COMMISSION,
San Francisco, June 9, 1854.

On this day before Commissioner Alpheus Felch came Pablo Briones, a witness in behalf of the claimant, Antonio Maria Osio, case No. 18, who, after being duly sworn, deposed as follows, his evidence being interpreted by the secretary.

Questions by Counsel for Claimant.

First question. What is your name, age, and residence?

Answer. Pablo Briones is my name; I am thirty-two years of age, and reside at Bolinas, Marin county.

Second question. When did you first know Angel island; who then owned it?

Answer. I first knew the island in the fore part of the year 1840; the island was then owned by Antonio M. Osio.

Third question. Did Osio ever occupy said island; if so, when, and in what manner?

Answer. He did at that time occupy the island, and had horses and cattle upon it, and men to work there for him; he had fifty-five or fifty-six head of cattle and three tame horses upon the place.

Fourth question. Did Osio have any houses, dams, and cultivation upon the place?

Answer. He had a small house built upon the island at that time, twelve or fifteen feet square; it was a house such as they call in Spanish "palo parado," composed of poles, with the spaces between filled up with mud. It was the same kind of house that the Californians built and lived in at that time usually; Osio had two dams built for the purpose of catching the water that came from a spring for watering his cattle; on the north side of the island Osio had a considerable field under cultivation, but don't know the exact size, with a pole fence around it; there was corn, beans, potatoes, pumpkins, and all kinds of vegetables growing in the field.

Fifth question. How long did Osio live on the island? Did he ever have a major domo on the island?

Answer. Osio lived there several weeks at least; I don't know how long he did live there; he stayed with his major domo in the house before mentioned, while there; the major domo was a Mexican, and took care of the ranch for Osio, attending to the cattle and cultivation above mentioned. Osio had a ranch at Punta Reyes, and came up from Monterey often to superintend or look after this ranch and Angel island; he used to come up on horseback, and sometimes stopped at my house over night; I knew the major domo to be there two or three years, and after he left somebody took his place.

Sixth question. How large is the island, how many crops did you see raised on the island, and did you ever know of any other house being built other than the one you mentioned?

Answer. The island is about one league in circumference; saw the major domo take off crops from his field at least two successive years; in the early part of the year 1844, in crossing the bay, I saw two other houses built of timber on the island, and was told they belonged to Osio.

Cross-examined by J. H. McKune, Law Agent.

1st question. Where did you reside when you first knew that said Osio had a claim to the said island?

Answer. I lived in Baulinas, Marin county.

2d question. Where did Osio reside at that time?

Answer. At Monterey, and the greater portion of his property was at "Punta de Reyes."

3d question. When did you first see him at Angel island?

Answer. In 1840, as I have before said; he was constructing the dams (pilas) I have already mentioned.

4th question. How long did you see him there, and how often have you seen him there since that time, and what was he doing at each time?

Answer. I was there at that time two or three hours, having called while passing; I recollect seeing him there on two other occasions, but I cannot recollect at what time; he was not engaged in any labor, but had a major domo and servants living on the island.

5th question. Who were the major domo and servants that lived on the island?

Answer. The major domo, Iginio, and two or three of the servants were Mexicans, and the rest of the servants were Indians. I only know the name of the major domo; he lived on the island from 1840 to 1843, when I saw a foreigner there; I saw Iginio many times, for I passed the island often during the time he was there. I cannot say how often I saw him.

6th question. What business had Iginio on the island, and was it necessary to keep a major domo on the place for the number of cattle that was there?

Answer. He was seeing after the cattle and cultivating the land, or whatever his employer directed him to do. It was necessary to have a major domo there, to take charge of the stock and oversee the servants.

7th question. Was it usual in those times to keep a major domo for fifty head of cattle?

Answer. It was, if the owner of them had other business by which he was not permitted to be with them.

his
PABLO ⋈ BRIONES.
mark.

Subscribed and sworn to before me this ninth day of June, A. D. 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office June 9th, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Juan B. Alvarado.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *June* 16, 1854.

This day personally came before me, Mr. Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Juan B. Alvarado, a witness on behalf of claimant in case No. 18 on the docket of said board, wherein Antonio Maria Osio is claimant, and said witness being duly sworn, on oath deposed in the Spanish, which was interpreted into English by the interpreter to said board as follows, to wit.

The U. S. law agent is present.

Questions by Claimant's Counsel.

1st question. What is your name, age, and residence?

Answer. My name is Juan B. Alvarado; my age 45 years; and my residence Contra Costa county, California.

2d question. State what offices you have held in California, and the periods within which you have held them.

Answer. In 1826 I was an officer of the commissary (commissario) of the territory. In 1827 I was secretary of the territorial deputation, and also contador, teller of the ways and means of the pueblos. In 1835 I was employed in the custom-house at Monterey. In 1836 I was a member of the territorial deputation. In 1839 I was governor of the department, and political chief till 1842; I was then (1842) appointed col. of cavalry. In 1845 I was chosen a delegate to the Mexican congress, and have held some other provisional offices which I do not now recollect.

3d question. Look at the document now shown you, marked "Exhibit No. 1, to the deposition of W. D. M. Howard, in No. 18, H. J. T," and filed in this case, and say whether it is the original deed of grant made by you, as governor of California, of the island "de Los Angeles," in the bay of San Francisco, to Don Antonio Maria Osio, and is the signature of your name thereto attached your genuine signature?

(3d question objected to by U. S. law agent as leading the witness. P. L.)

Answer. This is the original grant made by me as governor, and this is my genuine signature to it.

4th question. State by what authority you made said grant.

(4th question objected to by U. S. law agent as a question of law. P. L.)

Answer. By an express order of the general government, made in 1838, in writing.

Answer objected to by law agent as secondary in absence of the writing.

Cross-examined by J. H. McKune, Law Agent.

1st question. Where did you reside when you first knew that said Osio had a claim to the said island?

Answer. I lived in Baulinas, Marin county.

2d question. Where did Osio reside at that time?

Answer. At Monterey, and the greater portion of his property was at "Punta de Reyes."

3d question. When did you first see him at Angel island?

Answer. In 1840, as I have before said; he was constructing the dams (pilas) I have already mentioned.

4th question. How long did you see him there, and how often have you seen him there since that time, and what was he doing at each time?

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Answer. It was, if the owner of them had other business by which he was not permitted to be with them.

his
PABLO ⋈ BRIONES.
mark.

Subscribed and sworn to before me this ninth day of June, A. D. 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office June 9th, 1854.
(Signed) GEO. FISHER, *Sec'y.*

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Deposition of Juan B. Alvarado.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *June* 16, 1854.

This day personally came before me, Mr. Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Juan B. Alvarado, a witness on behalf of claimant in case No. 18 on the docket of said board, wherein Antonio Maria Osio is claimant, and said witness being duly sworn, on oath deposed in the Spanish, which was interpreted into English by the interpreter to said board as follows, to wit.

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Answer. This is the original grant made by me as governor, and this is my genuine signature to it.

4th question. State by what authority you made said grant.

(4th question objected to by U. S. law agent as a question of law. P. L.)

Answer. By an express order of the general government, made in 1838, in writing.

Answer objected to by law agent as secondary in absence of the writing.

5th question. State what previous correspondence, if any, had taken place between the authorities in California and the supreme government of Mexico, in relation to the islands along the coast, and in the bays in the territories of the Californias.

Answer. My predecessors in the government of California had reported to the supreme government of the condition of the different islands along the coasts and ports, and showing that the want of vigilance on these islands was the cause of the smuggling on the coast, being the resorts of the Russians and other foreign smugglers, destroying the trade in furs of otters, &c. I, myself, reported those reports to the supreme government, urging it to remedy in some way these evils; but when it was found the Russians who thus occupied these places might secure to themselves some permanent foot-hold upon these islands, I called upon the general government for some decisive measure upon this subject, either by ordering some naval vessel or other efficient means, to prevent such evils; and about the latter part of 1837, or early in 1838, a commission was given by myself to Don Andres Castillero to represent these among other evils to the supreme government. Said Don Andres was a commissioner sent to me as governor, by the supreme government, and I sent back these despatches by him.

(This answer objected to by U. S. law agent as embracing secondary evidence, writings not being produced or proved lost, &c.

P. L.)

6th question. What was the final order of the supreme government of Mexico in relation to the disposition of these islands?

(6th question objected to by U. S. law agent, as the writing is not produced.

P. L.)

Answer. It was that the said islands should be granted to such Mexican citizens as should ask for them, recommending especially that preference should be given to Don Andreas Castillero and Carlos Antonio Carrillo, giving to each of them of the islands, such as they might select.

7th question. State what offices Don Antonio Maria Osio held in California; was he a Mexican citizen, and much employed in the public service in California?

Answer. He was the first clerk in the office of the secretary of the government of California in 1824 and 1825; I believe he was afterwards a delegate to the territorial deputation.

In 1831 he was receiver at the marine custom-house, at the Presidio of San Francisco, and from 1839 to 1842 he was administrator of the custom-house at Monterey; he was a Mexican citizen, and was always, for his patriotism and honesty, occupied in the public business of the country.

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8th question. By the laws, usages and customs of Mexico, would the grant aforesaid of the said island of Los Angeles to the said Osio have been respected, and his title thereto have been complete and perfect, if there had been no change of government?

(8th question objected to by U. S. law agent as an attempt to prove matter of law.

P. L.)

Answer. Most undoubtedly it would.

Cross-examination by U. S. Law Agent.

1st question. Have you a distinct recollection of having signed the Doc. No. 1, as stated in your answer to 3d question?

Answer. Yes, I recollect distinctly having signed and given the said document at the time of its date.

2d question. Where was you, and who was present, when you signed said document?

Answer. In my own house at Monterey, in 1839, where the government house was; there might have been some messenger who handed me the document; most likely some of the clerks or other persons of the office *was* present; I do not now recollect the particular room or part of the house where I signed said paper.

3d question. Did you read the grant before you signed it?

Answer. I doubtless did.

4th. Did you read it in the same room where you signed it?

Answer. Without doubt I did.

5th question. How long after you received it did you deliver it to some other person, and to whom did you deliver it?

Answer. I do not recollect.

6th question. How long had you it in your possession?

Answer. I do not recollect.

7th question. Who wrote the document?

Answer. Some of the clerks in the secretary's office—whosoever wrote the despatches of the governor.

8th question. Whose duty was it at that time to write the despatches of the governor?

Answer. Such of the clerks as the secretary might order to do it; sometimes one, sometimes another.

9th question. Name the clerks in the office at that time, who might have been ordered to write it.

Answer. Jimeno was secretary; Francisco Arce was first clerk; Pedro Estrada was a clerk, and other young men, who, being meritorious, were employed upon their applying for employment at the office; I recollect Albino Castro, who was there in 1839; there were one or two others, whose names I do not recollect, who had permission to write there—young men who were going to school.

10th question. Were you acquainted with all the persons who were allowed to write there, and their respective handwritings?

Answer. I knew the handwriting of Jimeno very well; as to the others I could not speak with certainty; I was not acquainted with all of them.

11th question. Look again at said document, and say whose handwriting it is in.

Answer. I believe it to be Pedro Estrada's.

12th question. Where was Jimeno when you signed this document?

Answer. He was, without doubt, at the office where the document was written.

13th question. When you signed said paper, had Jimeno already signed it?

Answer. It is not possible he would have signed before I did.

14th question. When this document was signed, who had the custody of the government seal?

Answer. The secretary, and his clerks in the office.

15th question. Was it customary to put the seal to the paper before or after you signed?

Answer. It was customary both ways.

16th question. In this particular instance, which way was adopted?

Answer. I did not take pains to see whether the seal was on it or not.

17th question. What was the object of putting the government seal to any document in the governor's office?

Answer. It was to dispense with the labor of writing it by hand, because it was done cheaper and quicker; it was not a seal of the State, and I do not know of its having any legal import whatever; it was upon documents, because it was ordered by the superior.

18th question. Was it your uniform practice to put the seal upon all grants you issued; if nay, why did you not obey the orders of the superior in that respect?

Answer. It was not a uniform practice; as to the obedience, it belonged to the supreme government to inquire into that; it was not a seal of law; sometimes there was no ink for the use of the seal; when I ordered the clerks to put it on, and there was not ink, they would put it on with the candle and some powder used to blacken the seal; it was omitted after, because it was dirty and would rub off and soil the documents, and I did not like to have it on the paper.

19th question. How many grants did you ever issue and *on it* the seal?

Answer. I wish I had so good a memory as to recollect such a fact; I cannot answer positively as to the proportion; I can make no calculation, nor can I recollect.

20th question. State, as near as you can recollect, what proportion of the grants you issued bore the seal?

Answer. I cannot form a definite idea of the proportion, and I do not wish to hazard my correctness by making a statement at random.

21st question. How many grants of land did you ever issue as governor?

Answer. A great many; I cannot pretend to state how many.

22d question. Was it over two hundred?

Answer. I cannot tell; it may be, but I cannot say.

23d question. Can you state positively that it was under the number of five hundred?

Answer. No, I cannot so state.

24th question. Did you ever issue 4 grants of land while you were governor of California, without stamping the seal upon them? if yea, state to whom they were issued, and for what lands.

Answer. It is possible I did, but I cannot recollect either the persons or the lands.

25th question. Why did you not put the seal to the grant in this case?

Answer. I suppose it was because neither I nor the secretary ordered it at the time.

26th question. Where did Antonio Maria Osio live at the time you issued this grant to him?

Answer. I think he lived, without doubt, in Monterey.

27th question. How long did he live there after that?

Answer. I recollect he lived there till he went for a time (during the time of the Bear Flag, or about that time) to the Sandwich Islands.

28th question. During the time after the grant till he went to the islands what was Osio's employment?

Answer. He was administrator of the custom-house, but I cannot recollect exactly what time; and after that he was a private citizen attending to his domestic concerns there at Monterey; he frequently went about to other places, but always recognised Monterey as his residence.

29th question. Were there other grants of land made to said Osio?

Answer. I think I recollect making another grant to him on the coast; such a grant was made, and I think I made it.

30th question. For what quantity of land was such other grant made?

Answer. I do not recollect.

31st question. Do you recollect that in 1840, or thereabout, you, as governor of California, sent a message to the departmental assembly, wherein you stated to them that the governor had no authority to grant lands within two leagues of the seacoast, which message is now on file in the surveyor general's office?

Answer. We, the governors, never understood that the law in

this respect was prohibitory of the granting of lands to Mexican citizens, and only to foreigners under contracts of colonization.

This opinion was carried out in the action of the supreme government in the cession and disposition of the islands, and this was the opinion of some of the members of the deputation when this subject was under consideration in that body, at the special session in 1840 or 1841, called for the very purpose of considering this law. It might have been in 1842.

Nevertheless, as there was a difference of opinion respecting the interpretation of it, I might have erred and afterwards changed my opinion. I am now convinced that I had an erroneous opinion upon that subject; I do not now recollect the message referred to in the interrogatory.

32d question. Was you governor of California in February, 1840; if yea, who was then your secretary?

Answer. I was then governor, and Jimeno was secretary; though I do not recollect now but that there might have been in his absence an interim secretary; the chief clerk sometimes acted as secretary in the absence of that officer.

33d question. When you communicated with the departmental assembly did you do so by sending a message to them by your secretary?

Answer. Sometimes I did, when my presence was not required before the assembly, or when I was unwell.

34th question. Look at document marked "D. J. L." and filed in case No. 280, and state whether it is a traced copy of a document which you authorized your secretary to transmit to the departmental assembly in February, 1840.

(34th question objected to by claimant's counsel as entirely irrelevant. P. L.)

Answer. This is my message; I recollect presenting it myself to the deputation; I did not transmit it by my secretary; I ordered my secretary to write the act of presentation, as the deputation had not a secretary of their own at that time.

35th question. Look at the same document where it treats of the subject of agriculture, and say whether you therein expressed the following opinion:

"That during the few years past, a considerable quantity of land has been granted both to the natives and foreigners, but that it is to be noted, in respect to the greater part of said grants, that they possess the character of illegal concessions, if it be considered that they exist within the ten littoral leagues which the law regulating the subject of the 18th of August, 1824, expresses."

Answer. This is substantially what I expressed it my message, and is the very opinion which in my former answer I alluded to as being erroneous, and of the error of which I was afterwards and am more fully convinced.

36th question. How many grants to islands in California have you ever made as governor, giving the names of the grantees and the islands granted?

Answer. I recollect having granted Los Angeles island to Antonio Maria Osio; the island of Yerba Buena to José Castro; the island of La Yegua or Los Yeguas (Mare island) to Victor Castro; and there may possibly have been another or others; I do not recollect.

37th question. Were you acquainted with Albert P. Jones?

(37th question objected to by claimant's counsel as irrelevant.)

Answer. I know several Joneses, but do not by that designation remember any one.

38th question. Which did you first grant, the island of Los Angeles or Yerba Buena?

Answer. I believe I granted Yerba Buena first.

39th question. How long first?

Answer. I do not know; I cannot recollect.

40th question. Were you ever at a house in San Francisco with José Castro and one Jones in 1848?

(40th question objected to by claimant's counsel as irrelevant. P. L.)

Answer. I came here to give testimony respecting the island of Los Angeles and the grant thereof to Antonio Maria Osio, and as I am testifying in that case under oath, I do not feel called upon to answer questions irrelevant thereto, and, therefore, I do not wish to answer such questions before in this examination, only for the sake of politeness, and to do justice to parties. I do not feel bound to answer questions which do not pertain to the island of Los Angeles. I decline further answer to this question.

41st question. Have you any recollection of having told any one that you had no recollection of having ever granted the island of Yerba Buena to any one, and that if you ever did grant it you must have been either drunk or crazy?

(41st question objected to by claimant's counsel, on the ground of irrelevancy. P. L.)

Answer. The witness desires to refer the commissioner to his former answer as applying also to this question, and earnestly solicits the law agent to treat him with more consideration and respect. I have no more to say in answer to this question.

The law agent requests the following note made:

"That after the witness had declined to answer the 40th question, and before the answer to 41st question was reduced to writing, Gen'l James Wilson, counsel for claimant, said in the hearing of witness that he (Wilson) believed the witness had the right to decline answering this question as irrelevant in the cause in which he is now testifying under oath."

P. L.

The law agent thereupon objects to this deposition being had in evidence, on the ground that witness refuses to answer questions deemed by said law agent material to the case.

Counsel for claimant wishes noted here a general objection to such parts of the cross-examination as relates merely to the granting of other islands than the one claimed in this case, and to all such matter as has no relation to the examination in chief.

42d question. When, from whom, and under what circumstances, did you receive the order mentioned by you in your answer to 4th question in chief herein?

Answer. I recollect receiving said order in 1838 by Captain Castellero, a commissioner from the supreme government.

43d question. Did Osio proceed to erect any defences on said Angel island against the smugglers, or in any other way, in furtherance of the law, seek to protect the country against them? If yea, what did he do?

Answer. He was never advised or required by law, or his superiors, to make any such defences, and, therefore, I suppose he never did.

44th question. Why did you recommend the granting of the islands for such defences, and then neglect to require such defences to be made?

Answer. I did not recommend grants for the purpose, but recommended in general terms that some remedy should be applied to the evils of smuggling. I required no defences to be erected on the islands, because I had no such orders from the supreme government.

45th question. How do you know your answer respecting the usages, customs, &c., to 8th question in chief herein, is correct?

Answer. I know it because I am acquainted with the usages and customs of the government of Mexico, in whose employ I have passed the greater portion of my life.

46th question. Would said grant have been held good without the fulfilment of the conditions of the grant?

Answer. It undoubtedly would have been recognised as a valid grant, so far as any conditions are contained in this grant, particularly in a case like this, where the grant is made upon considerations of personal merit in the grantee.

47th question. How many instances, either in California or Mexico, have you ever known in which such grants have been held good, naming each particular grant, and the court in which it has been so decided, to be good?

Answer. I do not now recollect of but one grant in California being acted upon and approved by the supreme government of Mexico; that was the grant of "Bodega" to Stephen Smith.

48th question. How many grants of land did you make as gov-

ernor within the ten leagues of the seacoast, if any, while you entertained the opinion that it was illegal so to grant?

(48th question objected to by claimant's attorney.

P. L.)

Answer. I cannot recollect.

49th question. Did you issue any grants of land within the 10 littoral leagues before February 16, 1840; if yea, why did you do so when it was in your opinion illegal?

Answer. I made some grants, and did so as in respect to the usage and custom of my predecessors.

50th question. Is the island Los Angeles, in question, within 10 littoral leagues?

Answer. Yes, and adjacent to the coast.

Re-examined by Claimant's Counsel.

1st question. Look at the traced copy of the order annexed to the expediente filed in this case contained on pages marked "A 1" and "A 2," and identified by the initials "P. L.," and state if you recognise it as a correct copy of the order you received from the supreme government, referred to in your answer to 4th question in chief herein?

(This 1st question objected to by law agent as leading the witness.

P. L.)

Answer. Yes, it is an exact copy and legitimate copy of said order.

Cross-examined by U. S. Law Agent.

1st question. How long since you have seen the original order of which this purports to be a traced copy, and have you ever compared this with the one received?

Answer. I do not recollect to have seen the original since it was first given to me, and I have never compared it with this copy, but as soon as I saw the copy I recollected the order, and am satisfied that it is a true copy.

JUAN B. ALVARADO.

Subscribed and sworn to before me, on this 17th day of June, A. D. 1854.

PETER LOTT,
Commissioner for taking Testimony, &c.

Filed in office June 17, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Wm. A. Richardson.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *July* 10, 1854.

This day personally came before Peter Lott, commissioner for

taking testimony to be used before the board of U. S. land commissioners, in said State, William A. Richardson, a witness on behalf of the claimant, in case No. 18, wherein Antonio M. Osio is claimant, and said witness being duly sworn, on oath deposes in English as follows.

The U. S. law agent is present.

Questions by Claimant's Counsel.

1st question. What is your name, age, and residence?

Answer. My name is Wm. A. Richardson; my age is fifty-nine years; my residence Marin county.

2d question. Have you been examined as a witness in this cause before? if yea, state fully what you know in regard to the cultivation and occupation of Angel island by Antonio M. Osio.

Answer. I have been examined as a witness in this cause, before Alpheus Felch, commissioner, heretofore. Osio occupied said island in person, while he was building dams, as mentioned in my former deposition, and also in marking his cattle, as therein mentioned; and whenever he visited the island, as I have before sworn, he lived upon the island for about 3 months with his major domo; during this time he was building the dams above mentioned, and branding the cattle we took over, and building houses for workmen. These houses were the same as were usually built on ranches for servants at that time by the Mexicans.

While he was on the island, as above mentioned, he also fenced in 300 or 400 varas square of land, with a pole fence, and put in a crop of potatoes, corn, beans, pumpkins, melons, &c., near Raccoon straits, in the north part of the island.

During this time he had a Mexican named Ignio living on the island in one of the houses which they built, as his mayor domo; and after he left the island he left him in charge of the same, but under my inspection as agent. I have the account in my books yet, of the amounts which I paid him as agent for Osio.

Ignio had 4 *o* 5 Indians also to work with him on the island; they were employed on the island till just about the time of the war, for Osio. After the war broke out, for some time, no one stayed on the island, when I attended to it myself for Osio; shortly after I put an Englishman on to the place, as a tenant, as mentioned in my former deposition; this man built a house as one of the conditions of his occupying the island.

This is the house alluded to in my former deposition; I then stated that this was the first house built upon the island; by that, I meant that it was the first wooden house built in the American style, so that said Osio might have a place fit for a gentleman to go to. This man occupied the island till Osio rented the island to a Frenchman, in 1850.

Cross-examined by Associate Law Agent.

1st question. When were you appointed agent of Osio; and for what purpose?

Answer. It was when he went away to Monterey, about 3 months after he went on to the island; I think it was in the year 1839; he requested me to look out for his people and supply them with what they needed; I did supply them with beef, as he allowed no cattle to be killed on the island, his stock consisting of young heifers.

2d question. When did you put the cattle on the island?

Answer. I put them there when he first went on to the island; he and his men went with me the first load I took; it was in 1839.

3d question. Has the cultivation and improvement, you spoke of, been continued since?

Answer. It has been continued and greatly increased since.

4th question. Did you stay on the island during the war, when you say you took care of it for Osio?

Answer. I did not stay there at nights; I went there every day; there was a man there on guard, with some dogs; the place is near my house at Sancelito; the island just in front of that place.

5th question. When did Osio return to the place?

Answer. He came there every year at the marking of the cattle, and sometimes several times in a year.

WILLIAM A. RICHARDSON.

Subscribed and sworn to before me, on this 10th day of July, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office July 10, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Espediente Promovido por Antonio Ma. Osio en pretencion de la Isla de los "Angeles," en el puerto de San Francisco.

S'or Gefè Sup'r Politico:

Antonio Ma. Osio con el mayor respecto ante V. S. dice que desde el año de 1830, tengo echa solicitud para que se me conceda la isla de los Angeles en S. Fran'co para poner en ella una casa y cria de Caballos ò mulas. Ahora nuevamente lo hago esperando que V. S. se sirbira concedermela applicandomela al mismo tiempo que reciba esta en papel comun por falta del sellado que corresponde juro, &c.

Monterey, Octubre 7, de 1837.

ANTONIO MA. OSIO.

MONTEREY, *Feb'o* 1o, *de* 1838.

Informe la comandante militar de la frontera del norte de San Fran'co.

ALVARADO.

S'or Gefè Politico Sup'r:

La isla de los Angeles de qe. habla la presente solicitud, puede concederse a Dn. Anto. Maria Osio pues me consta qe. la solicito desde el año de 1830, pero convendra hacer la esepcion de que cuando el gob'o deba poner una forteleza sobre la cima ò altura penal de ella no se impida.

Mont'y, Feb'ro 18 de 1838.

MAO. G. VALLEJO.

[SELLO.]

Vista la peticion antecedente el informe del comand'e militar de la frontera del norte de San Fran'co con todo lo demas se tuvo presente para facilitar por todos los medios posible el impulso qe. el ramo mercantil de nuestros puertos, conforme esta recomendado por las leyes origentes; he venido por este decreto en conceder à Dn. Antonio Ma. Osio la ocupacion de las tierras qe. comprende la isla llamada de los Angeles situada dentro del puerto de S'n Fran'co; para qe. pueda hacer de ella el uso qe. mas le convenga establecer casa, poner bienes de campo y hacer todo lo qe. concurrera al adelanto de los ramos mercantil y agricola à condicion de qe. el gobierno podrà establecer fortalesa militar en cualquiera tiempo qe. lo hallare conveniente. Con este decreto se presentara el interesado al comand'e militar respectivo en donde se tomar a razon para la divida constancia. Es dado en Monterey del departamento de las Californias a 19 de Feb'ro, de 1838.

JUAN B. ALVARADO.

Sello tercero, dos reales. Habilitado provisionalm'te por la aduana maritima de Monterey para los años de 1839 y 1840.

ANTO. MA. OSIO.

ALVARADO.

Ex'mo S'or:

Antonio Ma. Osio, de esta veciudad en el debido respeto ante V. E. se presenta y dice que en el año pasado le fue concedida la isla de los Angeles dentro del puerto de S'n Francisco para cria de Caballada; mas por esta vez vengo en suplicar à V. E. tenga ha bien darme nuevo titulo de posecion con arreglo al decreto superior que lo faculta para dar en colonizacion las islas sercanas

à esta costa. P. T. A. V. E. suplico atienda como deseo à la solicitud esta por lo que recib re gracia y justicia juro, &c.

Monterey, Febrero 15, de 1839.

ANTONIO MA. OSIO.

MONTEREY, 11 *de Junio, de* 1839.

En atencion à los meritos de Dn. Anto. Ma. Osio y teniendo à la vista la orden que dirije à este establecim'to departamental el sup'or de la nacion de f'ha 20 de Junio ultimo, para qe. pueden concederse à los nacionales las islas adjacentes en las costas de este puerto; he venido en tal vertud en concederle la qe. ésta dentro del P. S. de S. José conocido con el nombre de los Angeles con los linderos qe. esta naturalm'te tiene por lo cual se oriste exñalar su demarcacion como bastan'te conocido.

En consecuencia mando que sirviendole de titulo el presente de espresado S. Osio y teniendose por firme y valedero se tome razon en el libro à que corresponde y se entreque al mencionado pa. sus resguardo y demas fines.

Dado—

A. 1 P. L.

MINISTERIO DE LO INTERIOR.

Ex'mo S'or:

Deseando el E. S. presidente por una parte protega la poblacion de las islas desiertas adjacentes à ese departam'to que son parte del territorio nacional è impedir por otra que los muchos aventureros estrangeros se aprovechen de esas poseciones considerables de donde puedan hacer gran perjuicio à nuestra pesca, comercio, è intereses se ha servido resolver que V. E. deacuerdo con la junta departamental proceda con actividad y prudencia à conceder y repartir terrenos en d'has islas à los nacionales que las solicitan, recomendando desde luego S. E. que à los ciudadanos Antonio Carlos Carrillo por sus utiles y patrioticos servicios á fin de qe. se les a tienda de pref'a y se les consigne exclusivam'te una de las repetidas islas que ellos mismos pueden elegir. Tengo el honor de decirlo á V. E. para su conocim'to y efectos correspondientes.

Dios y Libertad. Mejico, Julio 20, de 1838.

Pesado. A. 2 P. L.

Ex'mo S'or Gob'r del Departam'to de
Californias, *Villa de los Angeles.*

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my charge and custody

a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power in me vested by law, do hereby certify that the five preceding and hereunto attached pages of tracing paper, numbered from one to five inclusive, as also the two pages of tracing paper numbered one to two, with letter A prefixed, exhibit true and accurate copies of certain documents now on file and forming a part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed at the city of San Francisco, California, this 3d day of September, 1853.

[SEAL.]

JOHN C. HAYS,
Surveyor Gen'l Cal.

Filed in office Sept. 5, 1853.

GEO. FISHER, *Sec'y.*

Translation of Espediente.

Record of Proceedings had at the instance of Antonio Maria Osio, in solicitation of the "Islas de los Angeles," at the port of San Francisco.

Señor Superior Political Chief:

Antonio Maria Osio, with the greatest respect, appears before your excellency and states: that ever since the year 1830 he has a petition presented, praying that the island of Los Angeles, at San Francisco, may be granted to him, to build a house thereon, and breed horses and mules. He now renews it, hoping that your excellency will condescend to grant it to him, at the same time asking you to admit this on common paper, for want of that of the corresponding stamp, &c.

Monterey, October 7th, 1837.

(Signed) ANTONIO MA. OSIO.

(The following appears in the original, on the margin):

MONTEREY, *February 1st*, 1838.

The military commandancy of the frontier north of San Francisco will report.

(Signed) ALVARADO.

Señor Superior Political Chief:

The island of "Los Angeles," to which the present petition refers, may be granted to Don Antonio Ma. Osio, since I can testify that he has petitioned for it ever since the year 1830; but it may be well to make the exception, that when the government may desire to build a fort on the top or principal height thereof, it may not be hindered from so doing.

Monterey, February 7, 1838.

(Signed) MA. G. VALLEJO.

[L. S.]

In view of the foregoing petition, the report of the military commandant of the frontera of the north of San Francisco, with every thing else had , in consideration for the facilitating, by all possible means, of the impulse that the mercantile branch of our ports deserves, as is recommended by the existing laws, I have concluded, by this decree, to grant to Don Antonio Ma. Osio the occupation of the lands which the island called the Angels embraces, situated within the port of San Francisco, to the end that he may make that use of it which he may deem most suitable—to build a house, raise stock, and do everything that may concern the advancement of the mercantile and agricultural branches—upon the condition that, whenever it may be convenient, the government may establish a fort thereon.

The interested party will present himself, with this decree, to the proper military commandancy, in which there will be made an entry thereof, for the due verification of the same.

Given at Monterey, in the department of the Californias, on the 19th day of February, 1838.

(Signed) JUAN B. ALVARADO.

Third Class Stamp—Two Reals.

Provisionally authorized by the maritime custom-house at Monterey, for the years one thousand eight hundred and thirty-nine and one thousand eight hundred and forty.

(Signed) ANTONIO MARIA OSIO.

(Signed) ALVARADO.

Most Excellent Sir:

Antonio Maria Osio, a resident of this place, with due respect appears before your excellency, and states: That during last year the island of the Angeles (inside of the port of San Francisco) was granted to him for the breeding of horses; but at the present time he comes, praying your excellency may deem it expedient to give to him a new title of possession, in accordance with the superior decree which empowers you to grant, for purposes of colonization, the islands near by on this coast.

Therefore he prays your excellency may give the desired consideration to this solicitude, by which he will receive favor and justice. He swears, &c.

Monterey, February 15th, 1839.

(Signed) ANTONIO MA. OSIO.

MONTEREY, *June 11th*, 1839.

In consideration of the merits of Don Antonio Maria Osio, and having before me the order which the supreme government of the

nation directs to this departmental government, of date of the 20th of June last, to the effect that the islands adjacent to the coasts of this province may be granted to citizens of the nation, (nacionales,) I have concluded, in virtue thereof, to grant to him that which is inside the port of San Francisco, known by the name of the "Angeles," according to the natural boundaries thereof—wherefore its limits are omitted to be assigned, as they are sufficiently well known.

Therefore I order that the present, serving as a title to the said Señor Osio, and being held as binding and valid, an entry be made thereof in the corresponding book, and that this be delivered to the interested party for his security and other purposes.

Given—

OFFICE OF THE SECRETARY OF THE INTERIOR.

Most Excellent Señor:

The most excellent president, on the one part desiring to protect the settlement of the desert islands adjacent to that department, which are a part of the national territory, and to check, on the other, the many foreign adventurers who may avail themselves of those considerable portions, from which they may do great damage to our fishing, commerce, and interests, has been pleased to resolve that your excellency, in concurrence with the departmental junta, proceed, with activity and prudence, to grant and distribute the lands on said islands to the citizens of the nation who may solicit them, recommending from hence his excellency that the preference may be conceded to citizens Antonio and Carlos Carillos, in consideration of their useful and patriotic services, and that there may be obtained to them exclusively one of the said islands, which they themselves can select.

I have the honor to communicate it to your excellency for your understanding, and corresponding purposes.

God and Liberty. Mexico, July 20th, 1838.

(Signed) PISCIDO.

To his Excellency the GOVERNOR of the
Department of Californias, *City of Los Angeles.*

I, George Fisher, secretary to the U. S. land commission, to ascertain and settle the private land claims in the State of California, hereby certify the foregoing to be a true, correct, and faithful translation of a certified traced copy from the surveyor's office of certain Spanish documents now on file in case No. 18 on the docket of this board, wherein Antonio Ma. Osio is claimant vs. the United States.

In testimony whereof I have hereunto signed my name, office of

the secretary of the above named commissioners, at the city of San Francisco, Cala., this 12th day of April, A. D. 1854.

(Signed) GEO. FISHER, *Sec'y*.

Filed in office Sept. 5, 1853.

(Signed) GEO. FISHER, *Sec'y*.

Grant.—Exhibit No. 1 *to Depo. of W. D. M. Howard, in No.* 18.—*H. J. T.—George Fisher.*

Sello 1o—Seis Pesos.

Habilitado provisional mentepor la aduana maritima de Monterey, para los años de 1839 y 1840.

ANTONIO MA. OSIO.

ALVARADO.

Juan B. Alvarado, Gobernador interino del Departamento de las Californias.

En atencion à los meritos de Dn. Antonio Ma. Osio, y teniendo à la vista la orden que dirije à este gobierno departamental el supremo de la nacion, de f'ha veinte de Julio ultimo, para que puedan concederse à las nacionales las islas de ayasentes, à las costas de este suelo he venido, en tal virtud en concederle la que esta dentro del puerto de San Francisco, conocida con el nombre de Los Angeles, con los linderos que ella naturalmente tiene por lo cual se omite señalar su demarcacion como tastan teml'e conocida. En consecuencia mando que sirviendole de titulo el presente, al espresado S'or Osio, y teniendose por forme y valedero se tome razon en el libro à que corresponde y se entreque al interesado para su resguardo y demas fines.

Dado en Monterey, à once de Junio, de mil ochocientos treinta y nueve.

JUAN B. ALVARADO.

MAN'L JIMENO, *S'rio del Despacho*.

Queda tomada razon de este despacho en el libro de asientos de titulos sobre adjudicaciones de terrenos à fa. 8va.

JIMENO.

Recorded in the office of the county recorder of San Francisco, in liber 1 of Spanish records, page 33, May 12th, 1851, at ¼ to 11 o'clock a. m.

JOHN A. McGLYNN.
By JAS. O. GRADY, *Deputy*.

Filed in office Feb'y 2d, 1852.

GEO. FISHER, *Sec'y*.

"C."—*Translation of Title, &c.*

Juan B. Alvarado, Governor of the Department of California.

In consideration of the services of Mr. Antonio M. Osio, and in conformity with instructions sent to this departmental government by the supreme government of the nation, dated the 20th day of July last, directing that islands adjacent to this coast might be granted to natives, in virtue of that order, I have granted to him that in the port of San Francisco known by the name of Angeles, contained within its natural boundaries, and therefore omit to describe it, as it is well known.

In consequence, I order this present document shall serve the said Osio as a firm and valid title; that it is to be recorded in the book of records corresponding, and that this original shall be delivered to him for his security and further purposes.

Given in Monterey, this eleventh day of June, one thousand eight hundred and thirty-nine.

(Signed) JUAN B. ALVARADO.

MANUEL JIMENO,
Sec'y of the Depart't.

This despatch has been recorded in the book of titles and adjudication of lands, on the reverse of folio 8.

(Signed) JIMENO.

True translation. GEO. FISHER, *Sec'y.*

Filed in office February 2, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Opinion by Com'r S. B. Farwell.

ANTONIO MA. OSIO
vs.
THE UNITED STATES. } No. 18.

Claim for the island called Los Angeles, in the bay of San Francisco.

The claimant in this case has placed on file a traced copy of his expediente, and also of a grant for the island issued by Governor Juan B. Alvarado, bearing date the 11th day of June, 1839, both of which are submitted in evidence.

The grant does not contain the usual conditions of inhabitancy and cultivation.

The genuineness of the expediente is satisfactorily established, and the execution of the grant is proved by the testimony of Governor Alvarado himself, and to have been done at the time of its purport.

This board have already determined, by its decisions, that grants issued by the several governors of California under the provisions of the Mexican colonization laws without the usual conditions ap-

pended, that the law would require the performance of the same, or the grant would be void.

It now remains to be determined, first, whether the conditions of the law upon which *are* these grants based have been substantially complied with.

It appears from the testimony of W. A. Richardson, that the claimant went into the possession of the island in the year 1840, and took on the same about fifty young heifers and five young bulls, and some horses; and that, within the year from the date of the grant, he built a house of a cheap order, but of the same kind as was usually built on ranches for the use of servants that took care of the stock, and that he had put a proportion of it under cultivation and raised crops thereon within the year; and that, in the mean time, he built a dam across a small run formed by springs on the island, so as to form a reservoir of water for the use of the stock; that he remained there in person about three months, during the time of making the aforesaid improvements, and that he did not reside on the island permanently himself, but was frequently there, superintending the affairs of the island. That he continued improving the place, built three other houses, and had persons constantly in his employ on the island, and that a proportion of the same was cultivated each year until the war with America, and at that time his stock had increased to the number of about five hundred.

The testimony of Richardson is fortified by the testimony of other witnesses in the case, who swear substantially to the same facts.

Although the claimant has not resided permanently on the place in person, yet he has complied substantially with the requisitions of the Mexican colonization law, so as to entitle him to a confirmation of his grant under ordinary circumstances. It has been questioned, however, whether the islands recognised as a part of the Mexican possessions *ever* subject to be granted under the provisions of their colonization laws. As yet, we have not been able to find anything to exclude them therefrom; but, on the contrary, we find the following in the Senate document of the United States, No. 17, appendix No. 7, for the year 1848, being a translation of the copy of an official letter from the Minister of the Interior to the governor of California, respecting the granting of certain islands to Mexican citizens:

Most Excellent Sir:

His excellency the minister of the interior, under date of the 12th of July, 1838, says to me that which I copy.

"Most Excellent Sir:

"His excellency the president being desirous, on the one hand, to protect the population of the desert islands adjacent to the depart-

ment which form a part of the national territory, and on the other hand the many foreign adventurers from benefiting themselves with the considerable portions from whence they may do great injuries to our fisheries, commerce, and interests, has been pleased to resolve that your excellency, in conjunction with the departmental junta, proceed with activity and prudence to grant and distribute land on said islands to Mexicans who may solicit them, recommending to you in particular the citizens Antonio and Carlos Carrillo for their useful and patriotic services, in order that you may attend to them in preference, and grant them exclusively one of said islands which they themselves may select.

"I have the honor to communicate this to you for your knowledge and corresponding effect.

"And I inform your excellency thereof for your intelligence, &c.

"God and Liberty. Monterey, February 27th, 1840.

"JUAN B. ALVARADO.

"Most Excellent DEPARTMENTAL JUNTA *of California.*"

The board are of opinion that the foregoing dispenses with all doubt as to the power of the political chief of California to grant the islands adjacent to the coast, and belonging to the Mexican nation.

We are of the opinion, on the whole, that the claim is valid, and that the same should be confirmed, and a decree entered accordingly. Confirmed.

Filed in office Oct. 24, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Decree.

ANTONIO MA. OSIO vs. THE UNITED STATES. } No. 18.

After hearing the proofs and allegations in this case, it is adjudged and decreed by the board that the claim is valid, and that the grant herein be confirmed, with the following description, to wit: being an island in the bay of San Francisco, with its natural boundaries affixed by the water.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office Oct. 24, 1854.

(Signed) GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California,

it is hereby ordered that two transcripts of the proceedings, and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy-three pages, numbered from 1 to 73, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 18 on the docket of the said board, wherein Antonio Maria Osio is the claimant against the United States, for the place known by the name of "Angel Island."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California, this twenty-fifth day of May, A. D. 1855, and of the independence of the United States of America the seventy-ninth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Endorsed: Filed June 2d, 1855.

JOHN A. MONROE, *Clerk.*

Notice of Appeal in Case No. 18.

OFFICE OF THE ATTORNEY GENERAL OF THE U. S.,
Washington, June 13, 1855.

18.—"Angel Island."—Antonio Maria Osio, claimant.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 16th day of March, 1855, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

Very respectfully,
C. CUSHING,
Attorney General.

Endorsed: Filed July 17, 1855.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Petition.

To the Hon. District Court of the United States in and for the northern district of California.

THE UNITED STATES, Appellants,
vs.
ANTONIO M. OSIO. } No. 208.

The petition of the United States, by their attorney, represents, that this cause is an application for a review of the decision of the board of commissioners, whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case; that a transcript of the said records was filed in this court on the first day of May, 1855; that a notice of appeal was filed on the first day of September, 1855, and that the land claimed lies in the said district; that the said claim is invalid.

Wherefore appellants pray that the said decision of the board be reversed, and this court decree this the said title to be invalid.

Respectfully, &c.,
S. W. INGE, *U. S. Dist. Att'y.*

Endorsed: Filed August 13, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Answer.

District Court of the United States for the northern district of California.

THE UNITED STATES, Appellees,
vs.
ANTONIO M. OSIO, Claimant.

The claimant, by his attorneys, Bates & Lawrence, *deny*, generally and specifically, all the allegations of said appellant's petition, and says that the decree of the board of land commissioners is valid, for the reasons set forth in the opinion of said board of commissioners, and prays that the decree of said board of commissioners be affirmed, and that the said title of said claimant be affirmed to be valid, &c. August 13, 1855.

BATES & LAWRENCE.

Endorsed: Filed August 13, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion by his Honor Judge Ogden Hoffman.

THE UNITED STATES
vs.
ANTONIO MARIA OSIO.

The claim in this case is founded on a grant made by Gov. Alvarado, on the 11th day of June, 1839.

The expediente is produced from the archives, and the genuineness of the original grant is fully established. The island which is the subject of the grant appears to have been used almost immediately after the grant by the claimant for the raising of cattle, horses, &c., a considerable number of which he placed upon it. He also built a small house, which was occupied by his mayor domo. The claimant, although he did not personally reside on the island, frequently visited it, and on one occasion remained upon it three months, superintending, among other things, the erection of a dam to form a reservoir for the use of his cattle. His title to the island seems to have been generally known and recognised, and the cattle upon it were marked with his brand. He afterwards built three other houses, and put a portion of the land under cultivation; and at the time of the war his cattle had increased to the number of about five hundred.

The only doubt which can be suggested with regard to the validity of the claimant's title is, whether the governor had a right to grant islands upon or near the coast.

But it appears that the grants of this and other islands were made by the express direction of the supreme government of Mexico, and the governor was enjoined to grant the islands to Mexican citizens in order to prevent their occupation by foreigners, who might injure the commerce and fisheries of the republic, and who, especially the Russians, might otherwise acquire a permanent foothold upon them.

We agreed with *with* the board in the opinion that this express authority to make these grants removes all doubt on the subject.

The board have unanimously confirmed this claim, and we see no reason for reversing their decision; their decree must, therefore, be affirmed.

Decree.

In the District Court of the United States of America for the northern district of California.

THE UNITED STATES, Appellant, vs. ANTONIO M. OSIO. } Decree, No. 208—Rancho "Angel Island."—Stated term, March 24, 1856.

On appeal from the final decision of the board of land commissioners to ascertain and settle private land claims in the State of California.

This cause came on to be heard at a stated term of the court, on appeal from the final decision of the board of commissioners to ascertain and settle private land titles in the State of California, under an act of Congress approved on the 3d day of March, A. D. 1851, upon the transcript of the proceedings and decision of the board of commissioners, and the papers and evidence on which said decision was founded; and it appearing to the court that said trans-